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9 *Attorneys for Plaintiff SmartMetric, Inc.*

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11
12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 SMARTMETRIC, INC.,

15 Plaintiff,

16 v.

17 MASTERCARD INTERNATIONAL
18 INCORPORATED AND VISA INC.,

19 Defendants.

20
21 AND RELATED COUNTERCLAIMS

22 Case No. 11-CV-7126 MWF (AJWx)

23 DECLARATION OF PATRICK BRIGHT
24 IN RESPONSE TO JUDGE
25 FITZGERALD'S ORDER DATED APRIL
17, 2013

Date: June 24, 2013

Time: 10:00 a. m.

Place: 1600 Spring, Court of District Judge
Michael W. Fitzgerald

26 I, Patrick F. Bright, declare that:

27 1. I am trial counsel for Plaintiff Smartmetric, Inc. in the captioned case. I
make this declaration/ex parte application in obedience to Judge Fitzgerald's order
28 dated April 17, 2013.
29

2. On April 19, 2013 after 4:00 pm, counsel for defendants told me by telephone that Plaintiff's motion for partial summary judgment and the Declaration of Edward L. Gussin in support of this need not be under seal at all (see enclosed e-mails). Until now, the only reason I have had for trying to file this motion under seal was the requirement to do so under the protective order in this case.

3. Plaintiff apologizes for any disruption this has caused the Court. The Court is in possession of multiple copies of Plaintiff's motion for partial summary judgment and Declaration of Edward L. Gussin in support of Plaintiff's motion for partial summary judgment. Plaintiff sees no need to file more copies of these pleadings unless the Court so orders.

4. The parties have stipulated and the Court has ordered that this motion for summary judgment shall be heard on June 24, 2013, not May 13, 2013.

Executed under penalty of perjury under the laws of the United States of America at Glendale, CA on April 22, 2013.

Patrick Wray

Patrick F. Bright

Pat Bright

From: Pat Bright
Sent: Sunday, April 21, 2013 9:40 AM
To: 'Joseph Melnik'
Cc: 'Gary Clark'
Subject: RE: (No Subject)

JM: There are no new documents in my motion, as I told Mr. Clark. Regards, Pat

-----Original Message-----

From: Joseph Melnik [mailto:jmelnik@jonesday.com]
Sent: Saturday, April 20, 2013 10:21 PM
To: Pat Bright; <gclark@sheppardmullin.com>
Cc: Dan Friedman; Jason McDonell; An Doan; Matthew Silveira; Dennis Smith; Darren Franklin
Subject: RE: (No Subject)

Pat

To be clear, we are agreeing that your summary judgment motion need not be filed under seal provided you are only relying on the same documents you submitted in support of the MSJ you filed on March 11 (these were the highly confidential documents that were the subject of your motion to seal that was heard by Judge Fitzgerald on March 25). In the event you intend to rely on new or additional documents, please send those documents to us before you file your motion so we can determine whether such new or additional documents need to be under seal or not.

Thanks

Joe

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

----- Original Message -----

From : "Pat Bright" <PBright@patentattorney.us>
To : <gclark@sheppardmullin.com>, <jmelnik@JonesDay.com>
Cc : "Dan Friedman" <dfriedman@patentattorney.us>, <chaya@smartmetric.com>
Sent on : 04/20 11:34:44 AM EDT
Subject :

Gary: I write to confirm two things you told me on April 19, 2013: (1) Neither MasterCard nor VISA wants any more depo time with Chaya Hendrick; and (2) Smartmetric's pending motion for summary judgment need not be under seal. I will so inform the Court, and Ms. Hendrick. Thanks. Pat Bright for Smartmetric